

1                                   A bill to be entitled  
2           An act relating to the City of West Palm Beach,  
3           Palm Beach County, relating to the West Palm  
4           Beach Firefighters Pension Fund; amending and  
5           readopting section 17 of chapter 24981, Laws of  
6           Florida, 1947, as amended; providing for the  
7           creation of the fund; providing for  
8           professional and clerical services; providing  
9           for sources of revenue; providing for custodian  
10          of funds; providing for service pensions;  
11          providing for disability pensions, medical  
12          examinations, and return to work; providing for  
13          beneficiary benefits; providing that acceptance  
14          of pension is no bar to subsequent work;  
15          providing that pension is not assignable or  
16          subject to garnishment; providing for transfer  
17          of funds; providing for ordinances applicable;  
18          providing for existing benefits to continue;  
19          providing for workers' compensation offset;  
20          providing for actuarial valuations; providing  
21          for review procedures; providing for lump sum  
22          payments of small retirement income; providing  
23          for pickup of employee contributions; providing  
24          for Internal Revenue Code limits; providing for  
25          required distributions; providing for  
26          miscellaneous requirements; providing for  
27          rollover provisions; providing for rollovers  
28          from qualified plans; providing for actuarial  
29          assumptions; providing for addition of prior  
30          firefighter service; repealing all laws in  
31          conflict herewith; providing an effective date.

1 Be It Enacted by the Legislature of the State of Florida:

2

3 Section 1. Section 17 of chapter 24981, Laws of  
4 Florida, 1947, as amended, is amended and readopted to read:

5 (Substantial rewording of section. See  
6 ch. 93-374, Laws of Florida, as amended  
7 by chapters 95-476, 96-527, 97-327,  
8 99-456, and 2000-409, Laws of Florida,  
9 for present text.)

10 Section 17. West Palm Beach Firefighters Pension  
11 Fund.--

12 (1) Creation of fund.--There is hereby created a  
13 special fund for the Fire Department of the City of West Palm  
14 Beach to be known as the West Palm Beach Firefighters Pension  
15 Fund. All assets of every description held in the name of the  
16 West Palm Beach Firemen's Relief and Pension Fund and in the  
17 name of the West Palm Beach Firefighters Pension Fund have  
18 been and shall continue to be combined.

19 (a) Definitions.--The following words or phrases, as  
20 used in this act, shall have the following meanings, unless a  
21 different meaning is clearly indicated by the context:

22 1. "Actuarial equivalent value," "actuarial  
23 equivalence," or "single sum value" means the stated  
24 determination using an interest rate of 8.25 percent per year  
25 and the 1983 Group Annuity Mortality Table for males.

26 2. "Beneficiary" means any person who is not at  
27 retirement but who is entitled to receive a benefit from the  
28 West Palm Beach Firefighters Pension Fund or the West Palm  
29 Beach Firemen's Relief and Pension Fund, as applicable.

30 3. "Board of Trustees" or "Board" means the Board of  
31 Trustees provided for in this act.

- 1           4. "City" means the City of West Palm Beach, Florida.  
2           5. "Department" means the Fire Department of the City.  
3           6. "Enrolled actuary" means an actuary who is enrolled  
4 under Subtitle C of Title III of the Employee Retirement  
5 Income Security Act of 1974 and who is a member of the Society  
6 of Actuaries or the American Academy of Actuaries.  
7           7. "Final average salary" means the average of the  
8 monthly salary paid a member in the 3 best years of  
9 employment.  
10          8. "Firefighter" means any person employed in the  
11 Department who is certified as a firefighter as a condition of  
12 employment in accordance with the provisions of section  
13 633.35, Florida Statutes.  
14          9. "Fund" or "Pension Fund" means the West Palm Beach  
15 Firefighters Pension Fund or the West Palm Beach Firemen's  
16 Relief and Pension Fund, as applicable.  
17          10. "Member" means any person who is included in the  
18 membership of the Fund in accordance with paragraph (h).  
19          11. "Pension" means a monthly amount payable from the  
20 Fund throughout the future life of a person, or for a limited  
21 period of time, as provided in this act.  
22          12. "Qualified health professional" means a person  
23 duly and regularly engaged in the practice of his or her  
24 profession who holds a professional degree from a university  
25 or college and has had special professional training or skill  
26 regarding the physical or mental condition, disability, or  
27 lack thereof, upon which he or she is to present evidence to  
28 the Board.  
29          13. "Qualified public depository" means any bank or  
30 savings association organized and existing under the laws of  
31 Florida and any bank or savings association organized under

1 the laws of the United States that has its principal place of  
2 business in Florida, or has a branch office which is  
3 authorized under the laws of Florida or the United States to  
4 receive deposits in Florida, that meets all of the  
5 requirements of chapter 280, Florida Statutes, and that has  
6 been designated by the Treasurer of the State of Florida as a  
7 qualified public depository.

8 14. "Retirant" or "retiree" means any member who  
9 retires with a pension payable from the Fund.

10 15. "Retirement" means a member's withdrawal from City  
11 employment with a pension payable from the Fund.

12 16. "Salary" means:

13 a. The fixed monthly compensation paid to a  
14 firefighter and shall include those items that have been  
15 included as compensation in accordance with past practice.  
16 However, the term shall not be construed to include lump sum  
17 payments for accumulated leave.

18 b. On and after October 1, 2001, "salary," for the  
19 purpose of pension contributions, shall be defined as payments  
20 made to a firefighter by the City for: regular hours worked;  
21 step-up pay; longevity pay; all authorized leave time, which  
22 includes compensatory time used, earned personal leave used,  
23 emergency leave used, sick leave used, sick leave pay bank  
24 used, vacation time used, holiday time used, emergency leave,  
25 bereavement leave, and administrative leave; certification  
26 pay, which includes paramedic, hazardous material technician,  
27 special operations, dive rescue, fire service instructor, fire  
28 inspector, and SWAT certification pay; fire inspector standby  
29 pay; educational bonus incentive; pay received from the City  
30 during military training; and sick leave conversion when such  
31 leave is converted during the course of active employment. The

1 definition of "salary" specifically excludes any lump sum  
 2 payments for accumulated leave such as that received upon  
 3 final payoff. Employees who are specifically excluded from  
 4 bargaining unit recognition as set forth in Article 2, but who  
 5 are members of the West Palm Beach Firefighters Pension Fund,  
 6 shall continue to make contributions on management incentive  
 7 benefits. This definition of compensation shall not include  
 8 any duty employment that is performed for other than the City  
 9 of West Palm Beach per Article 31, Salary Plan.

10 17. "Service," "credited service," or "service credit"  
 11 means the total number of years, and fractional parts of  
 12 years, of employment of any member in the employ of the  
 13 Department, omitting intervening years and fractional parts of  
 14 years of service when the member was not employed by the City.  
 15 However, no member shall receive credit for years, or  
 16 fractional parts of years, of service for which the member has  
 17 withdrawn his or her contributions to the Fund, unless the  
 18 member repays into the Fund the contributions withdrawn, with  
 19 interest, within 60 months after reemployment. Further, a  
 20 member may voluntarily leave his or her contributions in the  
 21 Fund for a period of 5 years after leaving the employ of the  
 22 Department, pending the possibility of his or her being  
 23 rehired by the Department and remaining employed for a period  
 24 of not less than 3 years, without losing credit for the time  
 25 he or she has participated actively as a firefighter. If he or  
 26 she does not remain employed for a period of at least 3 years  
 27 as a firefighter with the Department upon reemployment, within  
 28 5 years his or her contributions shall be returned without  
 29 interest in accordance with paragraph (5)(i). In determining  
 30 the aggregate number of years of service of any member, the  
 31 time spent in the military service of the United States or

1 United States Merchant Marine by the member on leave of  
2 absence from the Department for such reason shall be added to  
3 the years of service, provided such time shall not exceed 5  
4 years. Further, to receive credit for such service the member  
5 must return to employment as a firefighter of the City within  
6 1 year after the date of release from such active service.

7 (b) Gender and number.--The masculine gender includes  
8 the feminine, and words of the singular with respect to  
9 persons shall include the plural and vice versa.

10 (c) Board of Trustees created.--There is hereby created  
11 a Board of Trustees, which shall be solely responsible for  
12 administering the West Palm Beach Firefighters Pension Fund  
13 and the West Palm Beach Firemen's Relief and Pension Fund. The  
14 Board shall be a legal entity, with the power to bring and  
15 defend lawsuits of every kind, nature, and description, and  
16 shall be independent of the City to the extent required to  
17 accomplish the intent, requirements, and responsibilities  
18 provided for in this act and applicable law. The Board shall  
19 consist of five trustees, as follows:

20 1. Two legal residents of the City, who shall be  
21 appointed by the City. Each resident-trustee shall serve as a  
22 trustee for a period of 2 years, unless sooner replaced by the  
23 City, at whose pleasure he or she shall serve, and may succeed  
24 himself or herself as trustee.

25 2. Two full-time firefighters shall be elected by a  
26 majority of the firefighters who are members of the Fund.  
27 Elections shall be held under such reasonable rules and  
28 regulations as the Board shall from time to time adopt. Each  
29 member-trustee shall serve as a trustee for a period of 2  
30 years, unless he or she sooner ceases to be a firefighter in  
31 the employ of the Department, whereupon the members shall

1 choose a successor in the same manner as the original  
2 appointment. Each member-trustee may succeed himself or  
3 herself as trustee.

4 3. A fifth trustee shall be chosen by a majority of  
5 the other four trustees. This fifth person's name shall be  
6 submitted to the City, which shall, as a ministerial duty,  
7 appoint such person to the Board as a fifth trustee. The fifth  
8 person shall serve as trustee for a period of 2 years, and may  
9 succeed himself or herself as trustee.

10 (d) Board vacancy; how filled.--In the event a trustee  
11 provided for in subparagraph (c)2. ceases to be a firefighter  
12 in the employ of the Department, such trustee shall be  
13 considered to have resigned from the Board. In the event a  
14 trustee provided for in subparagraph (c)2. shall resign, be  
15 removed, or become ineligible to serve as a trustee, the Board  
16 shall, by resolution, declare the office of trustee vacated as  
17 of the date of adoption of said resolution. If such a vacancy  
18 occurs in the office of trustee within 90 days of the next  
19 succeeding election for trustee, the vacancy shall be filled  
20 at the next regular election for the next term; otherwise, the  
21 vacancy shall be filled for the unexpired portion of the term  
22 by the members in the same manner as an original appointment.  
23 In the event a trustee provided for in subparagraph (c)1. or  
24 subparagraph (c)3. shall resign, be removed, or become  
25 ineligible to serve as a trustee, the Board shall, by  
26 resolution, declare the office of trustee vacated as of the  
27 date of adoption of said resolution. A successor for the  
28 unexpired portion of the term shall be chosen in the same  
29 manner as an original appointment.

30 (e) Board meetings; quorum; procedures.--The Board  
31 shall hold meetings regularly, at least once in each quarter

1 year, and shall designate the time and place thereof. At any  
2 meeting of the Board, three trustees shall constitute a  
3 quorum. Each trustee shall be entitled to one vote on each  
4 question before the Board and at least three concurring votes  
5 shall be required for a decision by the Board at any of its  
6 meetings. The Board shall adopt its own rules of procedure and  
7 shall keep a record of its proceedings. All public records of  
8 the Fund shall be kept and maintained as required by law. All  
9 meetings of the Board shall be open to the public and shall be  
10 held as required by law.

11 (f) Board chair.--The Board shall elect a chair from  
12 among the trustees.

13 (g) Board secretary.--The Board shall elect a  
14 secretary from among the trustees. The secretary shall keep a  
15 complete minute book of the actions, proceedings, and hearings  
16 of the Board.

17 (h) Membership.--All firefighters and all who hold a  
18 position of firefighter in the employ of the Department shall  
19 be members in the Fund. All firefighters, including the chief,  
20 who were in the employ of the Department as of April 30, 1959,  
21 shall be given credit for service rendered in the employ of  
22 the Department prior to May 1, 1959. New members to the Fund  
23 are required to undergo a physical examination for purposes of  
24 determining preexisting conditions. This physical examination  
25 shall be conducted in conjunction with the City's postoffer,  
26 preemployment physical examination. The Board's medical  
27 director shall review the results of this physical examination  
28 and provide notice to the Board and the member of any abnormal  
29 findings of the examination. This physical examination will be  
30 used for the purposes of establishing a physical profile of  
31 the member for determining preexisting conditions and



1 presumptive illnesses as provided for in subsection (6). After  
2 review, if further physical examination is required, such  
3 examination shall be conducted at Board expense.

4 (i) Compensation.--The trustees of the Fund shall not  
5 receive any compensation for their services as such, but may  
6 receive expenses and per diem as provided by law.

7 (2) Professional and clerical services.--

8 (a) Pension administrator.--The pension administrator  
9 of the Fund shall be designated by the Board and shall carry  
10 out its orders and directions.

11 (b) Legal counsel.--The City Attorney shall give  
12 advice to the Board in all matters pertaining to its duties in  
13 the administration of the Fund whenever requested, shall  
14 represent and defend the Board as its attorney in all suits  
15 and actions at law or in equity that may be brought against  
16 it, and shall bring all suits and actions in its behalf that  
17 may be required or determined by the Board. However, if the  
18 Board so elects, it may employ independent legal counsel at  
19 the Fund's expense for the purposes set forth in this act.

20 (c) Actuary.--The Board shall designate an enrolled  
21 actuary, who shall be its technical advisor and who shall  
22 perform such actuarial services as are required.

23 (d) Certified public accountant.--The Board shall  
24 employ, at its expense, a certified public accountant to  
25 conduct an independent audit of the Fund. The certified public  
26 accountant shall be independent of the Board and the City.

27 (e) Additional professional, technical, or other  
28 services.--The Board shall have the authority to employ such  
29 professional, technical, or other advisors as required to  
30 carry out the provisions of this act.

31

1           (3) Sources of revenue.--The financing of the Fund  
2 shall consist of the following sources of revenue:

3           (a) Taxes of insurance companies.--The moneys returned  
4 to the City as provided by chapter 175, Florida Statutes,  
5 shall be used to fund the share account benefit described in  
6 paragraph (5)(j). The City shall not opt out of participation  
7 in chapter 175, Florida Statutes, or any similar statutory  
8 enactment unless exigent circumstances exist, such as the  
9 bankruptcy of the City or changes or amendments to the statute  
10 regarding extra benefits by the Legislature. If any statutory  
11 changes are made by the Legislature, the City and the Board  
12 may renegotiate the impact of such changes, if necessary.

13           (b) Member contributions.--The member shall contribute  
14 6.45 percent of his or her salary to the Fund, which shall be  
15 deducted each pay period from the salary of each member in the  
16 Department. Effective the first full payroll period after  
17 January 1, 2002, the member shall contribute 7.85 percent of  
18 his or her salary to the Fund, which shall be deducted each  
19 pay period from the salary of each member in the Department.  
20 Effective the first full payroll period after October 1, 2002,  
21 the member shall contribute 8.85 percent of his or her salary  
22 to the Fund, which shall be deducted each pay period from the  
23 salary of each member in the Department. Effective the first  
24 full payroll period after October 1, 2003, the member shall  
25 contribute 9.85 percent of his or her salary to the Fund,  
26 which shall be deducted each pay period from the salary of  
27 each member in the Department. The contribution increase over  
28 6.85 percent is to be used to purchase eligibility for  
29 participation in the postretirement health insurance benefits.

30           (c) City contributions.--The City shall contribute to  
31 the Fund annually an amount which, together with the

1 contributions from the members and other income sources as  
2 authorized by law, will be sufficient to meet the normal cost  
3 of the Fund and to fund the actuarial deficiency over a period  
4 of not more than 40 years, provided that the net increase, if  
5 any, in unfunded liability of the Fund arising from  
6 significant amendments or other changes shall be amortized  
7 within 30 plan years.

8 (d) Gifts, etc.--All gifts, bequests, and devises when  
9 donated for the Fund.

10 (e) Interest from deposits.--All accretions to the  
11 Fund by way of interest or dividends on bank deposits or  
12 otherwise.

13 (f) Other sources.--All other sources of income now or  
14 hereafter authorized by law for the augmentation of the Fund.

15 (4) Custodian of funds.--All moneys and securities of  
16 the Fund may be deposited with the cash management coordinator  
17 of the City, acting in a ministerial capacity only, who shall  
18 be bonded and shall be liable in the same manner and to the  
19 same extent as he or she is liable for the safekeeping of  
20 funds for the City. However, any funds and securities so  
21 deposited with the cash management coordinator shall be kept  
22 in a separate fund by the cash management coordinator or  
23 clearly identified as funds and securities of the Fund. In  
24 lieu thereof, the Board shall deposit the funds and securities  
25 in a qualified public depository designated by the Board. The  
26 cash management coordinator or other depository shall receive  
27 all moneys due said Fund from all sources whatsoever. All tax  
28 revenue received pursuant to the provisions of chapter 175,  
29 Florida Statutes, shall be deposited into the Fund no more  
30 than 5 days after receipt. Member contributions withheld by  
31

1 the City on behalf of a member shall be deposited into the  
2 Fund immediately.

3 (a) Disbursements from the Fund.--The Board may issue  
4 drafts upon the Fund pursuant to this act and rules and  
5 regulations prescribed by the Board, provided that such drafts  
6 shall be issued in accordance with generally accepted  
7 accounting procedures, American Institute of Certified Public  
8 Accountants guidelines, and rules of the State of Florida  
9 Auditor General. All such drafts shall be consecutively  
10 numbered, signed by the chair and secretary, and each draft  
11 shall, upon its face, state the purpose for which it is drawn.  
12 For this purpose, the chair and secretary shall be bonded. The  
13 Board shall retain such drafts when paid, as permanent  
14 vouchers for disbursements made, and no moneys shall be  
15 otherwise drawn from the Fund. Payments from the Fund shall be  
16 made only upon a specific or general motion or resolution  
17 previously adopted by the Board authorizing such payment or  
18 payments.

19 (b) Investment of moneys.--The Board shall have the  
20 power and authority to invest and reinvest the moneys of the  
21 Fund, and to hold, purchase, sell, assign, transfer, and  
22 dispose of any securities and investments held in said Fund.  
23 The aim of the investment policies shall be to preserve the  
24 integrity and security of Fund principal, to maintain a  
25 balanced investment portfolio, to maintain and enhance the  
26 value of Fund principal, and to secure the maximum total  
27 return on investments that is consonant with safety of  
28 principal, provided that such investments and reinvestments  
29 shall be limited to the following:

30 1. Direct obligations of the United States Government  
31 or any agency thereof and debentures and other evidences of

1 indebtedness which are fully guaranteed by the United States  
2 Government or any agency thereof for the payment of principal  
3 and interest.

4 2. Direct obligations of the State of Florida.

5 3. In debt securities, preferred and common stocks and  
6 mutual fund shares subject to the limitations set forth in  
7 this section.

8 4. In time or savings accounts of a national bank, a  
9 state bank insured by the Bank Insurance Fund, a savings and  
10 loan association to the extent that deposits are guaranteed by  
11 the Savings Association Insurance Fund which is administered  
12 by the Federal Deposit Insurance Corporation, or a state or  
13 federally chartered credit union whose share accounts are  
14 insured by the National Credit Union Share Insurance Fund.

15 5. Of the total Fund principal in the pension or  
16 retirement system, including the amounts deposited in banks or  
17 associations, the total thereof invested in preferred stocks  
18 shall not aggregate more than 5 percent, and the total amount  
19 thereof invested in common stocks and mutual fund shares shall  
20 not aggregate more than 70 percent. Percentages shall be based  
21 on market value at the end of each reporting period (September  
22 30).

23 6. The following minimum standards shall govern the  
24 eligibility of securities for purchase as investments:

25 a. All corporate and association securities and mutual  
26 fund shares shall be issued by a corporation or other legal  
27 person incorporated or otherwise organized within the United  
28 States and domiciled therein to the extent required by section  
29 175.071(1)(b), Florida Statutes.

30 b. Not more than 10 percent of the total fund  
31 principal at market value shall be invested in any one issuing

1 company other than obligations of the United States or an  
2 agency thereof.

3 c. All bonds, stocks, or other evidence of  
4 indebtedness issued or guaranteed by a corporation shall be  
5 listed on any one or more of the recognized national stock  
6 exchanges and, in the case of bonds only, shall hold a rating  
7 in one of the four highest classifications by a major rating  
8 service. Said bonds and preferred stocks that are convertible  
9 into common stocks shall be considered common stocks and the  
10 purchase of same shall be limited by the provisions of  
11 subparagraph 5.

12 d. The Board shall engage the services of professional  
13 investment counsel to assist and advise the trustees in the  
14 performance of their duties.

15 e. At least once every 3 years, the Board shall retain  
16 an independent consultant professionally qualified to evaluate  
17 the performance of its professional money manager or  
18 investment counsel. The independent consultant shall make  
19 recommendations to the Board at its next regularly scheduled  
20 meeting.

21 (c) Maximum of cash not invested.--No more than 10  
22 percent of the assets of the Fund shall be held in cash or in  
23 noninterest-bearing deposits.

24 (d) Administrative expenses.--The administrative  
25 expenses of the Fund shall be paid by the Fund.

26 (e) Restrictions on the use of assets of Fund.--The  
27 assets of the Fund shall be used only for the payment of  
28 benefits and other disbursements authorized by this act and  
29 shall be used for no other purpose.

30 (5) Service pension.--

31 (a) Normal retirement.--

1           1. Any member whose entry or reentry in the employment  
2 of the Department occurs after April 30, 1959, who has  
3 attained age 50 years and who has acquired 15 or more years of  
4 service credit or, effective for retirements after January 20,  
5 2002, has 25 years of service credit without regard to age  
6 shall, upon application filed with the Board, be retired and  
7 shall be entitled to a monthly pension for the remainder of  
8 his or her life equal to the greater of the following, as  
9 applicable:

10           a. For a member who is actively employed by the  
11 Department on or after October 1, 1998, or who is part of the  
12 DROP on or after October 1, 1998, 3 percent of his or her  
13 final average salary multiplied by the number of years, and  
14 fraction of a year, of service credit earned from and after  
15 October 1, 1982, plus 2-1/2 percent of his or her final  
16 average salary multiplied by the number of years, and fraction  
17 of a year, of service credit earned prior to October 1, 1982,  
18 provided that in no case shall the total monthly pension  
19 payable to any such member exceed 78 percent of his or her  
20 final average salary;

21           b. For members who terminated employment, retired, or  
22 entered the DROP prior to October 1, 1998, except as provided  
23 in sub-subparagraph a., 2-1/2 percent of his or her final  
24 average salary multiplied by the number of years, and fraction  
25 of a year, of service credit, provided that in no case shall  
26 the total monthly pension payable to any member exceed 65  
27 percent of his or her final average salary; or

28           c. The sum of the following:

29           (I) Two and one-half percent of final average salary  
30 multiplied by the number of years, and fraction of a year, of  
31 service credit to a maximum of 26 years of service, and 2

1 percent of his or her final average salary multiplied by the  
2 number of years, and fraction of a year, in excess of 26 years  
3 of service, for all years of service earned through September  
4 30, 1988; and

5 (II) Two percent of final average salary multiplied by  
6 the number of years, and fraction of a year, of service credit  
7 earned on and after October 1, 1988.

8 2. Any member whose entry or reentry in the employment  
9 of the Department occurs after April 30, 1959, and prior to  
10 July 1, 1977, may elect upon his or her retirement to receive  
11 a pension under the provisions of this subparagraph in lieu of  
12 subparagraph 1., as follows: Any member who has attained age  
13 55 years and who has acquired 20 or more years of service  
14 credit shall, upon his or her application filed with the  
15 Board, be retired and, when so retired, shall be entitled to a  
16 monthly pension for the remainder of his or her life equal to  
17 the greater of the following:

18 a. Two percent of final average salary multiplied by  
19 the number of years, or fraction of a year, of service credit  
20 not to exceed 25 years, provided that in no case shall the  
21 total monthly pension payable to any member exceed 65 percent  
22 of his or her final average salary; or

23 b. The sum of the following:

24 (I) Two and one-half percent of final average salary  
25 multiplied by the number of years, and fraction of a year, of  
26 service credit to a maximum of 26 years of service, and 2  
27 percent of final average salary multiplied by the number of  
28 years and fraction of a year in excess of 26 years of service,  
29 for all years of service earned through September 30, 1988;  
30 and

31



1           (II) Two percent of final average salary multiplied by  
 2 the number of years, and fraction of a year, of service credit  
 3 earned on and after October 1, 1988.

4  
 5 The 3-percent benefit accrual factor in sub-subparagraph 1.a.  
 6 is contingent on and subject to the adoption and maintenance  
 7 of the assumptions set forth in subsection (22). If such  
 8 assumptions are modified by legislative, judicial, or  
 9 administrative agency action, and the modification results in  
 10 increased City contributions to the Pension Fund, the  
 11 3-percent accrual factor in sub-subparagraph 1.a. shall be  
 12 automatically decreased prospectively, from the date of the  
 13 action, to completely offset the increase in City  
 14 contributions. However, in no event shall the benefit accrual  
 15 factor in sub-subparagraph 1.a. be adjusted below 2.5 percent.  
 16 To the extent that the benefit accrual factor is less than 3  
 17 percent, the supplemental pension distribution calculation  
 18 under paragraph (d) shall be adjusted for employees who retire  
 19 on or after October 1, 1998, and those employees who were  
 20 members of the DROP on October 1, 1998. The adjustment shall  
 21 be to decrease the minimum return of 8.25 percent needed to  
 22 afford the supplemental pension distribution, when the amount  
 23 of the reduction is zero if an employee has been credited with  
 24 16 or more years with the 3-percent benefit accrual factor or  
 25 1.25 percent if an employee has been credited with no more  
 26 than a 2.5-percent benefit accrual factor. If an employee has  
 27 been credited with less than 16 years at the 3-percent benefit  
 28 accrual factor, then the accumulated amount over 2.5 percent  
 29 for each year of service divided by .5 percent divided by 16  
 30 subtracted from 1 multiplied by 1.25 percent is the reduction  
 31 from 8.25 percent. An example of the calculation of the

1 minimum return for supplemental pension distribution as  
2 described above is set forth in Appendix B to the collective  
3 bargaining agreement between the City of West Palm Beach and  
4 the West Palm Beach Association of Firefighters, Local  
5 727-IAFF, October 1, 1998-September 30, 2001.

6 (b) Vested deferred retirement.--A member who leaves  
7 the employ of the Department with 10 or more years of credited  
8 service who is not eligible for any other retirement benefit  
9 under this act shall be entitled to the applicable pension  
10 provided for in paragraph (a) or paragraph (c). Payment of  
11 this pension shall begin the first day of the calendar month  
12 following the month in which the member's application is filed  
13 with and accepted by the Board on or after attainment of age  
14 50 years. If applicable, the amount of the pension shall be  
15 determined in accordance with paragraph (c).

16 (c) Early retirement.--Any member may retire from the  
17 service of the Department as of the first day of any calendar  
18 month which is prior to the member's normal retirement date  
19 but subsequent to the date as of which the member has both  
20 attained the age of 50 and has been a member of this Fund for  
21 10 continuous years. In the event of early retirement, the  
22 monthly amount of retirement income shall be computed as  
23 described in paragraph (a), taking into account his or her  
24 credited service to the date of actual retirement and his or  
25 her final average salary as of such date. The amount of  
26 retirement income shall be actuarially reduced to take into  
27 account the member's younger age and earlier commencement of  
28 retirement income benefits. The early retirement reduction  
29 shall be 3 percent for each year by which the member's age at  
30 retirement preceded the member's normal retirement age.

31 (d) Supplemental pension distribution.--

1           1.a. The actuary for the Pension Fund shall determine  
2 the rate of investment return earned on Pension Fund assets  
3 during the 12-month period ending each September 30. The rate  
4 determined shall be the rate reported in the most recent  
5 actuarial report submitted pursuant to part VII of chapter  
6 112, Florida Statutes.

7           b. The actuary for the Pension Fund shall determine  
8 the actuarial present value, as of September 30, of future  
9 pension payments to eligible persons, as described in  
10 subparagraph 3., who are then being paid a pension. The  
11 actuarial present values shall be calculated using an interest  
12 rate of 7 percent per year compounded yearly and a mortality  
13 table as approved by the Board of Trustees and as used in the  
14 most recent actuarial report submitted pursuant to part VII of  
15 chapter 112, Florida Statutes.

16           c. A distribution amount shall be determined as of  
17 each September 30. For distributions made after October 1,  
18 1998, there shall be two different calculations to determine  
19 the distribution amount. For those employees who retire on or  
20 after October 1, 1998, or who are part of the DROP on or after  
21 October 1, 1998, the distribution amount shall be equal to  
22 factor (i) for each applicable member multiplied by the sum of  
23 factor (ii) and the positive difference, if any, between  
24 factor (iii) and 8.25 percent. For those employees who have  
25 retired before October 1, 1998, except as provided in this  
26 sub-subparagraph, the distribution amount shall be equal to  
27 factor (i) for each applicable member multiplied by the sum of  
28 factor (ii) and the positive difference, if any, between  
29 factor (iii) and 7 percent. For purposes of both calculations,  
30 factor (i) is the actuarial present value determined in  
31 sub-subparagraph 1.b. for the respective group. Factor (ii) is

1 one-half of the investment return rate in sub-subparagraph  
 2 1.a. in excess of 9 percent. Factor (iii) is the rate of  
 3 investment return in sub-subparagraph 1.a., not to exceed 9  
 4 percent. The distribution amount shall not exceed accumulated  
 5 net actuarial experience from all pension liabilities and  
 6 assets. If the net actuarial experience is favorable,  
 7 cumulatively, commencing with the experience for the year  
 8 ended September 30, 1985, after offset for all prior  
 9 supplemental distributions, the supplemental distribution may  
 10 be made. If the net actuarial experience is unfavorable,  
 11 cumulatively, commencing with the experience for the year  
 12 ended September 30, 1985, after offset for all prior  
 13 supplemental distributions, no supplemental distribution may  
 14 be made, and the City must amortize the loss until it is  
 15 offset by cumulative favorable experience.

16  
 17 If an actuarial report submitted as provided in this paragraph  
 18 is not state accepted prior to distribution, and if a  
 19 deficiency to the Pension Fund results, the deficiency shall  
 20 be made up from the next available supplemental pension  
 21 distribution, unless sooner made up by agreement between the  
 22 Board of Trustees and the City. No such deficiency shall be  
 23 permitted to continue for a period of greater than 3 years  
 24 from the date of payment of the supplemental pension  
 25 distribution which resulted in the deficiency.

26 2. The Board of Trustees shall determine annually if  
 27 there is to be a supplemental pension distribution. The  
 28 supplemental pension distribution is that portion of the  
 29 distribution amount, as defined in sub-subparagraph 1.c., to  
 30 be distributed to eligible persons.

31 3. Eligible persons are:

- 1           a. Pensioners.  
2           b. Surviving spouses.  
3           c. Surviving dependent children.  
4           d. Surviving dependent parents.  
5           e. Pensioners' estates for the year following death  
6 only.

7  
8 Eligible persons are initially eligible if they have been in  
9 receipt of a pension for at least 1 year on the first  
10 distribution date following their retirement. A survivor  
11 beneficiary of a deceased retired member shall be considered  
12 to have been in receipt of a pension for at least 1 year if at  
13 least 12 monthly pension payments have been made on account of  
14 the retirement. A surviving spouse may count the retirement  
15 period, if any, of the deceased member toward the 1-year  
16 requirement. Surviving spouses, children, and parents and  
17 retired members who receive pension adjustments under the  
18 prior escalator clause are not eligible for the supplemental  
19 pension distribution.

20           4. The supplemental pension distribution dates shall  
21 be the April 1 following the effective date of this subsection  
22 and each April 1 thereafter. Each eligible person shall be  
23 paid his or her allocated portion of the applicable  
24 supplemental pension distribution amount from the preceding  
25 September 30. A pensioner's estate is entitled to a pro rata  
26 share of the deceased retiree's supplemental pension  
27 distribution based on the number of months that the deceased  
28 retiree received a pension during the year ending the  
29 September 30 prior to the pensioner's death after initial  
30 eligibility.

31

1           5. Each supplemental pension distribution amount shall  
2 be allocated among the eligible persons in the proportion that  
3 an eligible person's supplemental pension distribution points  
4 bears to the aggregate amount of supplemental pension  
5 distribution points of all eligible persons. An eligible  
6 person shall be credited with supplemental pension  
7 distribution points as follows:

8           a. Three and eighty-five hundredths of a point  
9 multiplied by the service credit of the member at the time of  
10 retirement or prior to death; however, in the computation of  
11 the supplemental pension distribution due the in-line-of-duty  
12 pensioner, the maximum service credit of 26 years shall be  
13 used.

14           b. Maximum service credit shall be 26 years.

15           c. Allocations for surviving spouses and surviving  
16 dependent children who are eligible to receive supplemental  
17 pension distributions shall be 75 percent of the years of  
18 service earned by the pensioner. Allocations for duty death  
19 beneficiaries (surviving spouse and surviving children) shall  
20 be based upon 75 percent of 26 years of service.

21           (e) Payment of benefits.--

22           1. First payment.--Service pensions shall be payable  
23 on the first day of each month. The first payment shall be  
24 payable on the first day of the month coincident with or next  
25 following the date of retirement, or death, provided the  
26 member has completed the applicable age and service  
27 requirements.

28           2. Last payment.--The last payment shall be the  
29 payment due next preceding the member's death, except that  
30 payments shall be continued to the designated beneficiary or  
31 beneficiaries if a 10-year certain benefit, a joint and

1 survivor option, or beneficiary benefits, as applicable, are  
2 payable.

3 (f) Normal form of retirement income.--

4 1. Married member.--The normal form of retirement  
5 benefit for a married member or for a member with a dependent  
6 child or children or parent or parents shall be a service  
7 pension and beneficiary benefits. The service benefit shall  
8 provide monthly payments for the life of the member.  
9 Thereafter, beneficiary benefits shall be paid as provided in  
10 subsection (7).

11 2. Unmarried member.--The normal form of retirement  
12 benefit for an unmarried member without a dependent child or  
13 children or parent or parents shall be a 10-year certain  
14 benefit. This benefit shall pay monthly benefits for the  
15 member's lifetime. In the event the member dies after his or  
16 her retirement but before receiving retirement benefits for a  
17 period of 10 years, the same monthly benefit shall be paid to  
18 the beneficiary or beneficiaries as designated by the member  
19 for the balance of such 10-year period or, if no beneficiary  
20 is designated, to heirs at law, or estate of the member, as  
21 provided in section 175.181, Florida Statutes.

22 (g) Optional forms of retirement income.--

23 1.a. In the event of normal, early, or disability  
24 retirement, in lieu of the normal form of retirement income  
25 payable as specified in paragraph (a), paragraph (b),  
26 paragraph (c), or subsection (6) and in lieu of the  
27 beneficiary benefits as specified in subsection (7), a member,  
28 upon written request to the Board and subject to the approval  
29 of the Board, may elect to receive a retirement income of  
30 equivalent actuarial value payable in accordance with one of  
31 the following options:

1           (I) Lifetime option.--A retirement income of a larger  
2 monthly amount, payable to the member for his or her lifetime  
3 only.

4           (II) Joint and survivor option.--A retirement income  
5 of a modified monthly amount, payable to the member during the  
6 joint lifetime of the member and a dependent joint pensioner  
7 designated by the member, and following the death of either of  
8 them, 100 percent, 75 percent, 66-2/3 percent, or 50 percent  
9 of such monthly amounts, payable to the survivor for the  
10 lifetime of the survivor.

11           b. The member, upon electing any option of this  
12 paragraph, shall designate the joint pensioner or beneficiary  
13 or beneficiaries to receive the benefit, if any, payable in  
14 the event of his or her death, and will have the power to  
15 change such designation from time to time; but any such change  
16 shall be deemed a new election and shall be subject to  
17 approval by the Board. Such designation shall name a joint  
18 pensioner or one or more primary beneficiaries where  
19 applicable. If a member has elected an option with a joint  
20 pensioner or beneficiary and his or her retirement income  
21 benefits have commenced, he or she may thereafter change the  
22 designated joint pensioner or beneficiary only twice.

23           c. The consent of a member's joint pensioner or  
24 beneficiary to any such change shall not be required. However,  
25 the spouse of a married member must consent to any election to  
26 waive a joint and survivor benefit by signing the election  
27 form before a notary public. The spouse's written consent must  
28 acknowledge the effect of such a waiver. Consent of the spouse  
29 shall not be required if the spouse cannot be located, or for  
30 such other circumstances as may be prescribed by the Secretary  
31



1 of the Treasury of the United States. Any consent by a spouse  
2 shall be effective only with respect to such spouse.

3 d. The Board may request such evidence of the good  
4 health of the joint pensioner that is being added as it may  
5 require; and the amount of the retirement income payable to  
6 the member upon the designation of a new joint pensioner shall  
7 be actuarially redetermined, taking into account the age and  
8 sex of the former joint pensioner, the new joint pensioner,  
9 and the member. Each such designation shall be filed with the  
10 Board. In the event that no designated beneficiary survives  
11 the member, such benefits as are payable in the event of the  
12 death of the member subsequent to his or her retirement shall  
13 be paid as provided in subparagraph (h)2.

14 2. Retirement income payments shall be made under the  
15 option elected in accordance with the provisions of this  
16 paragraph and shall be subject to the following limitations:

17 a. If a member dies prior to his or her normal  
18 retirement date or early retirement date, whichever first  
19 occurs, retirement benefits shall be paid in accordance with  
20 subsection (7).

21 b. If the designated beneficiary or beneficiaries or  
22 joint pensioner dies before the member's retirement, the  
23 option elected shall be canceled automatically and a  
24 retirement income of the normal form and amount shall be  
25 payable to the member upon the member's retirement as if the  
26 election has not been made, unless a new election is made in  
27 accordance with the provisions of this paragraph or a new  
28 beneficiary is designated by the member prior to retirement.

29 c. If a member continues in the employ of the  
30 Department after meeting the age and service requirements set  
31 forth in paragraph (a) or paragraph (c) and dies prior to the

1 member's actual retirement, and while an option made pursuant  
2 to this subparagraph is in effect, monthly retirement income  
3 payments shall be paid, under the option, to a beneficiary or  
4 beneficiaries designated by the member in the amount or  
5 amounts computed as if the member has retired under the option  
6 on the date on which the member's death occurred.

7 3. No member may make any change in his or her  
8 retirement option after the date of cashing or depositing the  
9 first retirement check.

10 (h) Designation of beneficiary.--

11 1. Each member may, on a form provided for that  
12 purpose, signed and filed with the Board, designate a  
13 beneficiary or beneficiaries to receive the benefit, if any,  
14 which may be payable in the event of the member's death; and  
15 each designation may be revoked by such member by signing and  
16 filing with the Board a new designation of beneficiary form.  
17 However, after the benefits have commenced, a retirant may  
18 change his or her designation of joint annuitant or  
19 beneficiary only twice. If the retirant desires to change his  
20 or her joint annuitant or beneficiary, the retirant shall file  
21 with the Board a notarized notice of such change either by  
22 registered letter or on a form as provided by the Board. Upon  
23 receipt of a completed change of joint annuitant form or such  
24 other notice, the Board shall adjust the member's monthly  
25 benefit by the application of actuarial tables and  
26 calculations developed to ensure that the benefit paid is the  
27 actuarial equivalent of the present value of the member's  
28 current benefit.

29 2. Absence or death of beneficiary.--If a deceased  
30 member fails to name a beneficiary in the manner prescribed in  
31 subparagraph 1., or if the beneficiary or beneficiaries named

1 by a deceased member predecease the member, the beneficiary  
2 benefits, if any, which may be payable with respect to such  
3 deceased member may be paid, in the discretion of the Board  
4 to:

5 a. The spouse or dependent child or children of the  
6 member;

7 b. The dependent living parent or parents of the  
8 member; or

9 c. The estate of the member.

10 (i) Refund of contributions.--In the event a member  
11 leaves the employ of the Department or dies with less than 10  
12 years of credited service, and no service pension, disability  
13 pension, or beneficiary benefit is payable, the contributions  
14 made by him or her to the Fund shall be refunded, without  
15 interest (less any disability payments paid to the member), to  
16 the member or, in the event of death, to the beneficiary or to  
17 the member's estate.

18 (j) Chapter 175, Florida Statutes, share accounts.--

19 1. Individual member accounts.--A separate account  
20 shall be established and maintained in each member's name  
21 effective on or after October 1, 1988.

22 2. Share account funding.--

23 a. Each individual member account shall be credited  
24 with a pro rata share of all of the moneys received from  
25 chapter 175, Florida Statutes, tax revenues in June 1988 and  
26 thereafter.

27 b. In addition, any forfeitures as provided in  
28 subparagraph 5. shall be credited to the individual member  
29 accounts in accordance with the formula set forth in  
30 subparagraph 3.

31 3. Annual allocation of accounts.--

1           a. Moneys shall be credited to each individual member  
2 account in an amount directly proportionate to the number of  
3 pay periods for which the member was paid compared to the  
4 total number of pay periods for which all members were paid,  
5 counting the pay periods in the calendar year preceding the  
6 date for which chapter 175, Florida Statutes, tax revenues  
7 were received.

8           b. At the end of each fiscal year (September 30), each  
9 individual account shall be adjusted to reflect the earnings  
10 or losses resulting from investment, as well as reflecting  
11 costs, fees, and expenses of administration.

12           c. The investment earnings or losses credited to the  
13 individual member accounts shall be in the same percentage as  
14 are earned or lost by the total investment earnings or losses  
15 of the Fund as a whole, unless the Board dedicates a separate  
16 investment portfolio for chapter 175, Florida Statutes, share  
17 accounts, in which case the investment earnings or losses  
18 shall be measured by the investment earnings or losses of the  
19 separate investment portfolio.

20           d. Costs, fees, and expenses of administration shall  
21 be debited from the individual member accounts on a  
22 proportionate basis, taking the cost, fees, and expenses of  
23 administration of the Fund as a whole, multiplied by a  
24 fraction, the numerator of which is the total assets in all  
25 individual member accounts and the denominator of which is the  
26 total assets of the Fund as a whole. The proportionate share  
27 of the costs, fees, and expenses shall be debited from each  
28 individual member account on a pro rata basis in the same  
29 manner as chapter 175, Florida Statutes, tax revenues are  
30 credited to each individual member account (i.e., based on pay  
31 periods).

1           e. If the entire balance of the individual member  
2 account is withdrawn before September 30 of any year, there  
3 shall be no adjustment made to that individual member account  
4 to reflect either investment earnings or losses or costs,  
5 fees, and expenses of administration.

6           4. Eligibility for benefits.--Any member who  
7 terminates employment with the City, upon the member's filing  
8 an application with the Board, shall be entitled to 100  
9 percent of the value of his or her individual member account,  
10 provided the member meets any of the following criteria:

11           a. The member is eligible to receive a service pension  
12 as provided in this subsection;

13           b. The member has 5 or more years of credited service  
14 and is eligible to receive either:

15           (I) A nonduty disability pension as provided in  
16 paragraph (6)(a); or

17           (II) Beneficiary benefits for nonduty death as  
18 provided in paragraph (7)(a); or

19           c. The member has any credited service and is eligible  
20 to receive either:

21           (I) A duty disability pension as provided in paragraph  
22 (6)(c); or

23           (II) Beneficiary benefits for death in the line of  
24 duty as provided in paragraph (7)(b).

25           5. Forfeitures.--Any member who has less than 10 years  
26 of credited service and who is not eligible for payment of  
27 benefits after termination of employment with the City shall  
28 forfeit his or her individual member account. The amounts  
29 credited to said individual member account shall be  
30 redistributed to the other individual member accounts in the  
31

1 same manner as chapter 175, Florida Statutes, tax revenues are  
2 credited (i.e., based on pay periods).

3 6. Payment of benefits.--The normal form of benefit  
4 payment shall be a lump sum payment of the entire balance of  
5 the individual member account; or, upon the written election  
6 of the member, upon a form prescribed by the Board, payment  
7 may be made either by:

8 a. Installments.--The account balance shall be paid  
9 out to the retirant in three equal payments paid over 3 years,  
10 the first payment to be made upon approval of the Board; or

11 b. Annuity.--The account balance shall be paid out in  
12 monthly installments over the lifetime of the member or until  
13 the entire balance is exhausted. The monthly amount paid shall  
14 be determined by the Fund's actuary in accordance with  
15 selections made by the member in a form provided by the Board.

16 7. Death of a member.--If a member dies and is  
17 eligible for benefits from the individual member account, the  
18 entire balance of the individual member account shall be paid  
19 in a lump sum to the beneficiaries designated in accordance  
20 with paragraph (h). If a member fails to designate a  
21 beneficiary or, if the beneficiary predeceases the member, the  
22 entire balance shall be paid in a lump sum in the following  
23 order:

24 a. To the spouse;

25 b. If there is no spouse or the spouse is not alive,  
26 to the member's surviving child or children on a pro rata  
27 basis;

28 c. If there are no children or no child is alive, to  
29 the member's parent or parents; or

30 d. If no parent is alive, to the estate of the member.

31 (k) Deferred Retirement Option Plan (DROP).--

1           1. Eligibility to participate in the DROP.--  
2           a. Any member who is eligible to receive an early or  
3 normal retirement pension may participate in the DROP. Members  
4 shall elect to participate by applying to the Board of  
5 Trustees on a form provided for that purpose.  
6           b. Election to participate shall be forfeited if not  
7 exercised within the first 35 years of combined credited  
8 service.  
9           c. A member shall not participate in the DROP beyond  
10 the time of attaining 37 years of service and the total years  
11 of participation in the DROP shall not exceed 5 years. For  
12 example:  
13           (I) Members with 32 years of credited service at the  
14 time of entry shall participate for only 5 years.  
15           (II) Members with 33 years of credited service at the  
16 time of entry shall participate for only 4 years.  
17           (III) Members with 34 years of credited service at the  
18 time of entry shall participate for only 3 years.  
19           (IV) Members with 35 years of credited service at the  
20 time of entry shall participate for only 2 years.  
21           d. Upon a member's election to participate in the  
22 DROP, he or she shall cease to be a member and shall no longer  
23 accrue any benefits under the Pension Fund, except for the  
24 benefits provided under paragraph (j) of this subsection,  
25 chapter 175, Florida Statutes, share accounts. For all Fund  
26 purposes, the member becomes a retirant, except that a DROP  
27 participant shall continue to receive shares of the chapter  
28 175, Florida Statutes, money in accordance with paragraph (j),  
29 chapter 175, Florida Statutes, share accounts. The amount of  
30 credited service and final average salary shall freeze as of  
31 the date of entry into the DROP.

1           2. Amounts payable upon election to participate in the  
2 DROP.--

3           a. Monthly retirement benefits that would have been  
4 payable had the member terminated employment with the  
5 Department and elected to receive monthly pension payments  
6 shall be paid into the DROP and credited to the retirant.  
7 Payments into the DROP shall be made monthly over the period  
8 the retirant participates in the DROP, up to a maximum of 60  
9 months.

10           b. Payments to the DROP earn interest using the rate  
11 of investment return earned on Pension Fund assets as reported  
12 by the Fund's investment monitor. DROP assets are commingled  
13 with the Pension Fund assets for investment purposes. However,  
14 if a member does not terminate employment at the end of  
15 participation in the DROP, interest credit shall cease on the  
16 current balance and on all future DROP deposits.

17           c. No payments shall be made from the DROP until the  
18 member terminates employment with the Department.

19           d. Upon termination of employment, participants in the  
20 DROP shall receive the balance of the DROP account in  
21 accordance with the following rules:

22           (I) Members may elect to receive payment upon  
23 termination of employment or defer payment of the DROP until  
24 the latest day under sub-sub-subparagraph (III).

25           (II) Payments shall be made in either:

26           (A) Lump sum.--The entire account balance shall be  
27 paid to the retirant upon approval of the Board of Trustees.

28           (B) Installments.--The account balance shall be paid  
29 out to the retirant in three equal payments paid over 3 years,  
30 the first payment to be made upon approval of the Board of  
31 Trustees.



1        (C) Annuity.--The account balance shall be paid out in  
2 monthly installments over the lifetime of the member or until  
3 the entire balance is exhausted. The monthly amount paid shall  
4 be determined by the Fund's actuary in accordance with  
5 selections made by the member in a form provided by the Board  
6 of Trustees.

7        (III) Any form of payment selected by a member must  
8 comply with the minimum distribution requirements of the IRC  
9 401(A)(9), and are subject to the requirements of subsection  
10 (19).

11        (IV) The beneficiary of the DROP participant who dies  
12 before payments from DROP begin shall have the same right as  
13 the participant in accordance with subsection (7).

14        3. Loans from the DROP.--

15        a. Availability of loans.--

16        (I) Loans are available to members only after  
17 termination of employment, provided the member had  
18 participated in the DROP for a period of 12 months.

19        (II) Loans may only be made from a member's own  
20 account.

21        (III) There may be no more than one loan at a time.

22        b. Amount of loan.--

23        (I) Loans may be made up to a maximum of 50 percent of  
24 account balance.

25        (II) The maximum dollar amount of a loan is \$50,000,  
26 reduced by the highest outstanding loan balance during the  
27 last 12 months.

28        (III) The minimum amount of a loan is \$5,000.

29        c. Limitation on loans.--Loans shall be made from the  
30 amounts paid into the DROP and earnings thereon.

31        d. Term of the loan.--

- 1           (I) The loan must be for at least 1 year.  
2           (II) The loan shall be no longer than 5 years.  
3           e. Loan interest rate.--  
4           (I) The interest rate shall be fixed at the time the  
5 loan is originated for the entire term of the loan.  
6           (II) The interest rate shall be equal to the lowest  
7 prime rate published by the Wall Street Journal on the last  
8 day of each calendar quarter preceding the date of the loan  
9 application.  
10          f. Defaults of loans.--  
11          (I) Loans shall be in default if 2 consecutive months'  
12 repayments are missed or if a total of 4 months' repayments  
13 are missed.  
14          (II) Upon default, the entire balance becomes due and  
15 payable immediately.  
16          (III) If a loan in default is not repaid in full  
17 immediately, the loan may be canceled and the outstanding  
18 balance treated as a distribution, which may be taxable.  
19          (IV) Upon default of a loan, a member shall not be  
20 eligible for additional loans.  
21          g. Miscellaneous provisions.--  
22          (I) All loans must be evidenced by a written loan  
23 agreement signed by the member and the Board of Trustees. The  
24 agreement shall contain a promissory note.  
25          (II) A member's spouse must consent in writing to the  
26 loan. The consent shall acknowledge the effect of the loan on  
27 the member's account balance.  
28          (III) Loans shall be considered general assets of the  
29 Fund.  
30          (IV) Loans shall be subject to administrative fees to  
31 be set by the Board of Trustees.

- 1           4. After-tax contributions to the DROP.--  
2           a. A member may make after-tax contributions to the  
3 DROP. The maximum amount that may be contributed is the lesser  
4 of:  
5           (I) The IRS 415(c) limit.  
6           (II) The amount allowable under IRC 401(m).  
7           b. After-tax contributions to the DROP shall earn  
8 interest in the same manner as set forth in sub-subparagraph  
9 2.b.  
10           c. Distributions to members or their beneficiaries of  
11 after-tax contributions may be withdrawn at any time on or  
12 after termination of employment. However, payments must be  
13 made at least as promptly as required under subsection (19).  
14           d. Loans shall not be made against after-tax  
15 contributions.  
16           (6) Disability pensions, medical examinations, return  
17 to work, etc.--  
18           (a) Nonduty disability requirements.--Any member with  
19 5 or more years of service credit who is regularly employed in  
20 the Department who becomes physically or mentally totally and  
21 permanently disabled by illness, disease, or injury to perform  
22 the duties of a firefighter shall, upon the member's  
23 application to the Board, be retired with a pension provided  
24 for in this paragraph, provided that after a medical  
25 examination of the member made by or under the direction of a  
26 medical committee, the medical committee reports to the Board,  
27 in writing, whether:  
28           1. The member is wholly prevented from rendering  
29 useful and efficient service as a firefighter; and  
30           2. The member is likely to remain so disabled  
31 continuously and permanently.

1  
 2 The Board may admit and consider any other evidence that it  
 3 deems appropriate. The final decision as to whether a member  
 4 meets the requirements for a nonduty disability pension rests  
 5 with the Board and shall be based on competent substantial  
 6 evidence on the record as a whole.

7 (b) Nonduty disability pension benefits.--Upon  
 8 retirement on account of disability as provided in paragraph  
 9 (a), a member shall receive a disability pension computed  
 10 according to subparagraph (5)(a)1., notwithstanding that he or  
 11 she might not have attained age 50 years and might not have 15  
 12 or more years of service credit. Further, if the member has at  
 13 least 10 years of service credit, the disability pension shall  
 14 not be less than 25 percent of the member's average monthly  
 15 salary at the time of disability. A disability retiree may  
 16 select optional forms of benefits in accordance with paragraph  
 17 (5)(g).

18 (c) Duty disability requirements.--Any member who is  
 19 regularly employed in the Department and who becomes  
 20 physically or mentally totally and permanently disabled to  
 21 perform the duties of a firefighter by reason of an injury or  
 22 disease arising out of and in the course of the performance of  
 23 his or her duties as a firefighter in the employ of the City,  
 24 shall, upon his or her application to the Board, be retired  
 25 with a disability pension provided for in this paragraph,  
 26 provided that after a medical examination of the member made  
 27 by or under the direction of the medical committee, the  
 28 medical committee reports to the Board in writing, whether:

- 29 1. The member is wholly prevented from rendering  
 30 useful and efficient service as a firefighter; and  
 31

1           2. The member is likely to remain so disabled  
2 continuously and permanently.

3  
4 The Board shall admit and consider any other evidence that it  
5 deems appropriate. Any condition or impairment of health of a  
6 member caused by tuberculosis, hypertension, heart disease,  
7 hepatitis, or meningococcal meningitis resulting in total  
8 disability or death shall be presumed to have been accidental  
9 and suffered in the line of duty unless the contrary is shown  
10 by competent evidence, provided such member shall have  
11 successfully passed a physical examination before entering  
12 into such service, which examination failed to reveal any  
13 evidence of such condition. In order to be entitled to the  
14 presumption in the case of hepatitis, meningococcal  
15 meningitis, or tuberculosis, the member must meet the  
16 requirements of section 112.181, Florida Statutes. The final  
17 decision as to whether a member meets the requirements for a  
18 disability pension rests with the Board, based on competent  
19 substantial evidence on the record as a whole.

20           (d) Duty disability pension benefits.--Upon retirement  
21 on account of disability, as provided in paragraph (c), a  
22 member shall receive a monthly pension for the remainder of  
23 his or her life, equal to the greater of the following:

24           1. Sixty-five percent of the final average salary; or

25           2. The sum of the following:

26           a. Two and one-half percent of the member's final  
27 average salary multiplied by the number of years, and fraction  
28 of a year, of his or her service credit to a maximum of 26  
29 years of service, and 2 percent of his or her final average  
30 salary multiplied by the number of years, and fraction of a

31

1 year, in excess of 26 years of service, for all years of  
2 service earned through September 30, 1988; and

3 b. Two percent of the member's final average salary  
4 multiplied by the number of years, and fraction of a year, of  
5 his or her service credit earned on or after October 1, 1988.

6 (e) Medical committee.--The medical committee provided  
7 for in this subsection shall consist of no less than two  
8 qualified health professionals, one of whom shall be  
9 designated by the Board and one by the member. If deemed  
10 necessary by the Board, a third qualified health professional,  
11 selected by the two committee members previously designated,  
12 may be named to the medical committee. The medical committee  
13 shall report to the Board the existence and degree of  
14 permanent physical impairment of the member, if any, based  
15 upon the most recent edition of the American Medical  
16 Association's Guide to the Evaluation of Permanent Impairment,  
17 if applicable.

18 (f) Exclusions from disability pensions.--No  
19 disability pension shall be payable, either as a duty  
20 disability pension or as a nonduty disability pension, if the  
21 disability is a result of:

22 1. Excessive and habitual use by the member of drugs,  
23 intoxicants, or narcotics;

24 2. Injury or disease sustained by the member while  
25 willfully and illegally participating in fights, riots, or  
26 civil insurrections or while committing a crime;

27 3. Injury or disease sustained by the member while  
28 serving in any armed forces;

29 4. Injury or disease sustained by the member after his  
30 or her employment has terminated;

31

1           5. Injury or disease sustained by the member while  
2 working for anyone other than the City and arising out of such  
3 employment; or

4           6. Injury or disease sustained by the member before  
5 coming to work for the City. This exclusion applies to duty  
6 disability applications only.

7           (g) Payment of disability pensions.--Monthly  
8 disability retirement benefits shall be payable as of the date  
9 the Board determines that the member was entitled to a  
10 disability pension; however, the first payment shall actually  
11 be paid on the first day of the first month after the Board  
12 determines such entitlement. Any portion due for a partial  
13 month shall be paid together with the first payment. If the  
14 member recovers from the disability prior to his or her normal  
15 retirement date, the last payment shall be the payment due  
16 next preceding the date of such recovery or, if the member  
17 dies without recovering from his or her disability, then the  
18 following shall apply:

19           1. Married member.--Beneficiary benefits as set forth  
20 in subsection (7) shall be paid if, at the time of death, the  
21 member was married or had a dependent child or children or  
22 parent or parents; or

23           2. Unmarried member with 10 years of service or  
24 more.--Payments shall be made until the member's death or the  
25 120th monthly payment, whichever is later; or

26           3. Unmarried member with less than 10 years of  
27 service.--Payments shall be made until the member's death.

28  
29 Any monthly retirement income payments due after the death of  
30 a disabled member shall be paid to the member's designated  
31

1 beneficiary or beneficiaries or the member's estate as  
 2 provided in paragraph (5)(h) or subsection (7), as applicable.

3 (h) Reexamination of disability retirant.--At least  
 4 once each year during the first 5 years following a member's  
 5 retirement on account of disability, and at least once in each  
 6 3-year period thereafter, the Board shall require any  
 7 disability retirant who has not attained age 50 to undergo a  
 8 medical examination to be made by or under the direction of a  
 9 physician designated by the Board. However, if a disability  
 10 retirant has lost the firefighter certification, as required  
 11 by Florida Statutes, then the reexamination is discretionary.  
 12 If the retirant refuses to submit to the medical examination  
 13 in any such period, his or her disability pension may be  
 14 suspended by the Board until withdrawal of such refusal. If  
 15 such refusal continues for 1 year, all of the retirant's  
 16 rights in and to a disability pension may be revoked by the  
 17 Board. If, upon medical examination of the retirant, the  
 18 physician reports to the Board that the retirant is physically  
 19 able and capable of performing the duties of a firefighter in  
 20 the rank held by him or her at the time of retirement, the  
 21 member shall be returned to employment in the Department at a  
 22 salary not less than the salary of the rank last held by him  
 23 or her, provided that return to the employ of the Department  
 24 shall be subject to the approval of the Fire Chief. Should the  
 25 retirant become employed by the City, his or her disability  
 26 pension shall terminate.

27 (i) Return to work of a disability retirant; service  
 28 credit.--In the event a disability retirant is returned to  
 29 employment in the department, as provided in paragraph (h),  
 30 his or her service credit at the time of disability retirement  
 31 shall be restored to his or her credit. In the event he or she



1 retired under the provisions of paragraph (c), he or she shall  
2 be given service credit for the period he or she was in  
3 receipt of a disability pension. If he or she retired under  
4 the provisions of paragraph (a), he or she shall not be given  
5 service credit for the period he or she was in receipt of a  
6 disability pension.

7 (j) Expenses of medical examinations for  
8 disability.--The member shall be responsible for the expenses  
9 of the physician the member designates for medical  
10 examinations required under this subsection. Expenses for any  
11 other medical examinations required under this subsection  
12 shall be paid by the Fund.

13 (7) Beneficiary benefits.--

14 (a) Death while in service; 5 years or more  
15 (nonduty).--In the event a member with 5 or more years of  
16 service credit dies while in the employ of the Department, and  
17 the Board finds his or her death to have occurred as the  
18 result of causes arising outside the performance of his or her  
19 duties as a firefighter in the employ of the City, the  
20 following applicable pensions shall be paid:

21 1. Surviving spouse's benefits.--The surviving spouse  
22 shall receive a pension equal to two-thirds of the pension the  
23 member would otherwise have been entitled to receive under  
24 paragraph (5)(a), as if the member had retired the day  
25 preceding the date of his or her death, notwithstanding that  
26 the member might not have met the age and service requirements  
27 for retirement as specified in subsection (5). Upon the  
28 surviving spouse's death, the pension shall terminate.

29 2. Benefits for children, surviving spouse, etc.--In  
30 the event the deceased member does not leave a surviving  
31 spouse, or if the surviving spouse shall die, and the member

1 leaves an unmarried child or children under age 18, each such  
2 child shall receive a pension of an equal share of the pension  
3 to which said member's surviving spouse was or would have been  
4 entitled. Upon any such child's adoption, marriage, death, or  
5 attainment of age 18, the child's pension shall terminate and  
6 said child's pension shall be apportioned to the deceased  
7 member's remaining eligible children under age 18.

8 3. Benefits for dependent parents.--In the event a  
9 member dies and does not leave a surviving spouse or children  
10 eligible to receive a pension provided for in subparagraphs 1.  
11 and 2., and the member leaves a parent or parents whom the  
12 Board finds to have been dependent upon the member for 50  
13 percent or more of their financial support, each such parent  
14 shall receive a pension of an equal share of the pension to  
15 which the member's surviving spouse would have been entitled.  
16 Upon any such parent's remarriage or death, the parent's  
17 pension shall terminate.

18 4. Estate.--In the event a member dies and does not  
19 leave a surviving spouse, children, or parents eligible to  
20 receive a pension provided for in subparagraph 1.,  
21 subparagraph 2., or subparagraph 3., then the benefits  
22 remaining, if any, shall be paid to the member's estate.

23 (b) Death in the line of duty.--In the event a member  
24 dies while in the employ of the Department, and the Board  
25 finds his or her death to be the natural and proximate result  
26 of causes arising out of and in the actual performance of duty  
27 as a firefighter in the employ of the City, the following  
28 applicable pensions shall be paid:

29 1. Surviving spouse's benefits.--The surviving spouse  
30 shall receive a monthly pension equal to three-fourths of the  
31 duty disability pension the member would otherwise have been

1 entitled to receive at the time of his or her death. Upon the  
2 surviving spouse's death, the pension shall terminate.

3 2. Benefits for children, surviving spouse, etc.--In  
4 the event the deceased member does not leave a surviving  
5 spouse, or if the surviving spouse shall die, and the member  
6 leaves an unmarried child or children under age 18, each such  
7 child shall receive a pension of an equal share of the pension  
8 to which the member's surviving spouse was or would have been  
9 entitled. Upon any such child's adoption, marriage, death, or  
10 attainment of age 18, the child's pension shall terminate and  
11 said child's pension shall be apportioned to the deceased  
12 member's remaining eligible children under age 18.

13 3. Benefits for dependent parents.--In the event a  
14 member dies and does not leave a surviving spouse or children  
15 eligible to receive a pension provided for in subparagraphs 1.  
16 and 2., and the member leaves a parent or parents whom the  
17 Board finds to have been dependent upon the member for 50  
18 percent or more of their financial support, each such parent  
19 shall receive a pension of an equal share of the pension to  
20 which said member's surviving spouse would have been entitled.  
21 Upon any such parent's remarriage or death, the parent's  
22 pension shall terminate.

23 4. Estate.--In the event a member dies and does not  
24 leave a surviving spouse, children, or parents eligible to  
25 receive a pension provided for in subparagraph 1.,  
26 subparagraph 2., or subparagraph 3., then the benefits  
27 remaining, if any, shall be paid to the member's estate.

28 (c) Death after retirement.--Upon the death of a  
29 retirant, the following applicable pensions shall be paid:

30 1. Surviving spouse's benefits.--The surviving spouse  
31 shall receive a pension equal to three-fourths of the

1 retirant's pension at the time of his or her death. Upon the  
2 surviving spouse's death, the pension shall terminate.

3 2. Benefits for children, surviving spouse, etc.--In  
4 the event a deceased retirant does not leave a surviving  
5 spouse, or if the surviving spouse shall die, and the retirant  
6 leaves an unmarried child or children under age 18, each such  
7 child shall receive a pension of an equal share of the pension  
8 to which the retirant's surviving spouse was or would have  
9 been entitled. Upon any such child's adoption, marriage,  
10 death, or attainment of age 18, the child's pension shall  
11 terminate and said child's pension shall be apportioned to the  
12 deceased retirant's remaining eligible children under age 18.

13 3. Benefits for dependent parents.--In the event a  
14 retirant dies and does not leave a surviving spouse or  
15 children eligible to receive a pension provided for in  
16 subparagraphs 1. and 2., and the retirant leaves a parent or  
17 parents whom the Board finds to have been dependent upon the  
18 retirant for 50 percent or more of their financial support,  
19 each such parent shall receive a pension of an equal share of  
20 the pension to which the retirant's surviving spouse would  
21 have been entitled. Upon any such parent's remarriage or  
22 death, the parent's pension shall terminate.

23 4. Estate.--In the event a retirant dies and does not  
24 leave a surviving spouse, children, or parents eligible to  
25 receive a pension provided for in subparagraph 1.,  
26 subparagraph 2., or subparagraph 3., then the benefits  
27 remaining, if any, shall be paid to the retirant's estate.

28 (8) Acceptance of pension no bar to subsequent  
29 work.--The acceptance of a pension by a member upon retirement  
30 shall not bar the member from engaging in any other business  
31 thereafter.

1           (9) Pension not assignable or subject to  
2 garnishment.--The pensions or other benefits accrued or  
3 accruing to any person under the provision of this act and the  
4 accumulated contributions and the cash securities in the Funds  
5 created under this act shall not be subject to execution or  
6 attachment or to any legal process whatsoever, and shall be  
7 unassignable. However, pursuant to a court support order, the  
8 Trustees may direct that the retirement benefits be paid for  
9 alimony or child support in accordance with rules and  
10 regulations adopted by the Board of Trustees.

11           (10) Transfer of funds.--All funds and assets  
12 previously owned and controlled by the West Palm Beach  
13 Firemen's Relief and Pension Fund are vested in the Board of  
14 this Fund.

15           (11) Ordinances applicable.--All ordinances of the  
16 City applicable to chapter 175, Florida Statutes, are hereby  
17 made applicable to this act with equal force and effect. No  
18 proposed change or amendment to this act shall be adopted  
19 without approval required by section 175.351(2), Florida  
20 Statutes.

21           (12) Existing benefits to continue.--This act, and any  
22 amendments thereto, shall not be construed to decrease the  
23 benefits payable to, or on account of, any member of the Fund.

24           (13) Workers' compensation offset.--The pension  
25 benefits payable under this act shall not be offset by  
26 workers' compensation benefits payable on account of the  
27 disability or death of a member except to the extent that the  
28 total of the pension benefits and workers' compensation  
29 benefits exceed the member's monthly average wage.

30           (14) Actuarial valuations.--The Fund shall be  
31 actuarially evaluated annually.

1           (15) Review procedures.--

2           (a) The applicant for benefits under this chapter may,  
3 within 20 days after being informed of the denial of his or  
4 her request for pension benefits, appeal the denial by filing  
5 a reply to the proposed order with the pension's secretary. If  
6 no appeal is filed within the time period, then the proposed  
7 order shall be final.

8           (b) The Board of Trustees shall hold a hearing within  
9 45 days after the receipt of the appeal. Written notice of the  
10 hearing shall be sent by certified mail return  
11 receipt/restricted to individual, to the applicant at the  
12 address listed on the application 10 days prior to the  
13 hearing.

14           (c) The procedures at the hearing shall be as follows:

15           1. All parties shall have an opportunity to respond,  
16 to present physical and testimonial evidence and argument on  
17 all issues involved, to conduct cross-examination, to submit  
18 rebuttal evidence, and to be represented by counsel. Medical  
19 reports and depositions may be accepted in lieu of live  
20 testimony at the Board's discretion.

21           2. All witnesses shall be sworn.

22           3. The applicant and the Board shall have an  
23 opportunity to question all witnesses.

24           4. Formal rules of evidence and formal rules of civil  
25 procedure shall not apply. The proceedings shall comply with  
26 the essential requirements of due process and law.

27           5. The record in a case governed by this subsection  
28 shall consist only of:

29           a. A tape recording of the hearing, to be taped and  
30 maintained as part of the official files of the Board of  
31 Trustees by the pension's secretary.

1           b. Evidence received or considered.

2           c. All notices, pleadings, motions, and intermediate  
3 rulings.

4           d. Any decisions, opinions, proposed or recommended  
5 orders, or reports by the Board of Trustees.

6           (d) Within 5 days after the first hearing, the Board  
7 shall take one of the following actions:

8                 1. Grant the pension benefits by overturning the  
9 proposed order by a majority vote.

10                2. Deny the benefits and approve the proposed order as  
11 a final order after making any changes in the order the Board  
12 feels is necessary.

13           (e) Findings of fact by the Board shall be based on  
14 competent, substantial evidence on the record.

15           (f) Within 20 calendar days after rendering its order,  
16 the Board of Trustees shall send to the applicant, by  
17 certified mail return receipt/restricted to individual, a copy  
18 of the order.

19           (g) The applicant may seek review of the order by the  
20 Board of Trustees by filing a petition for writ of certiorari  
21 with the circuit court within 30 days.

22           (16) Lump sum payment of small retirement  
23 income.--Notwithstanding any provision of the Fund to the  
24 contrary, if the single sum value of the accrued retirement  
25 income is less than \$5,000 as of the date of retirement or  
26 termination of service, whichever is applicable, the Board of  
27 Trustees, in the exercise of its discretion, may specify that  
28 the actuarial equivalent of such retirement income be paid in  
29 lump sum.

30           (17) Pickup of employee contributions.--Effective the  
31 first day of the first full payroll period of the first

1 calendar quarter following receipt of a favorable  
 2 determination letter from the Internal Revenue Service, the  
 3 City shall pick up the member contribution required by this  
 4 section. The contributions so picked up shall be treated as  
 5 employer contributions in determining tax treatment under the  
 6 United States Internal Revenue Code. The City shall pick up  
 7 the member contributions from funds established and available  
 8 for salaries, which funds would otherwise have been designated  
 9 as member contributions and paid to the Fund. Member  
 10 contributions picked up by the City pursuant to this  
 11 subsection shall be treated for all other purposes of making a  
 12 refund of members' contributions, and for all other purposes  
 13 of this and other laws, in the same manner and to the same  
 14 extent as member contributions made prior to the effective  
 15 date of this subsection. The intent of this subsection is to  
 16 comply with section 414(H)(2) of the Internal Revenue Code.  
 17 (18) Internal Revenue Code limits.--  
 18 (a) In no event may a member's annual benefit exceed  
 19 \$160,000, adjusted for cost of living in accordance with  
 20 Internal Revenue Code ("IRC") Section 415(d).  
 21 (b) If a member has less than 10 years of service with  
 22 the City, the applicable limitation in paragraph (a) shall be  
 23 reduced by multiplying such limitation by a fraction, not to  
 24 exceed 1. The numerator of such fraction shall be the number  
 25 of years, or part thereof, of service with the City; the  
 26 denominator shall be 10 years.  
 27 (c) For purposes of this subsection, "annual benefit"  
 28 means a benefit payable annually in the form of a straight  
 29 life annuity with no ancillary or incidental benefits and with  
 30 no member or rollover contributions. To the extent that  
 31 ancillary benefits are provided, the limits set forth in



1 paragraph (a) shall be reduced actuarially, using an interest  
2 rate assumption equal to the greater of 5 percent or the rate  
3 being used for actuarial equivalence, to reflect such  
4 ancillary benefits.

5 (d) If distribution of retirement benefits begins  
6 before age 62, the dollar limitation as described in paragraph  
7 (a) shall be reduced using an interest rate assumption equal  
8 to the greater of 5 percent or the interest rate used for  
9 actuarial equivalence; however, retirement benefits shall not  
10 be reduced below \$75,000 if payment of benefits begins at or  
11 after age 55, and not below the actuarial equivalent of  
12 \$75,000 if payment of benefits begins before age 55. For a  
13 member with 15 or more years of service with the City, the  
14 reductions described above shall not reduce such member's  
15 benefit below \$50,000, adjusted for cost of living in  
16 accordance with IRC Section 415(d), but only for the year in  
17 which such adjustment is effective. If retirement benefits  
18 begin after age 65, the dollar limitation of paragraph (a)  
19 shall be increased actuarially by using an interest assumption  
20 equal to the lesser of 5 percent or the rate used for  
21 actuarial equivalence.

22 (e) Compensation in excess of limitations set forth in  
23 Section 401(a)(17) of the Internal Revenue Code shall be  
24 disregarded. The limitation on compensation for an eligible  
25 employee shall not be less than the amount which was allowed  
26 to be taken into account hereunder as in effect on July 1,  
27 1993. "Eligible employee" is an individual who was a member  
28 before the first plan year beginning after December 31, 1995.

29 (19) Required distributions.--In accordance with IRC  
30 Section 401(9)(C), any and all benefit payments shall begin by  
31 the later of:

1       (a) April 1 of the calendar year following the  
2 calendar year of the member's retirement date; or

3       (b) April 1 of the calendar year following the  
4 calendar year in which the employee attains age 70 1/2.

5       (20) Miscellaneous requirements.--

6       (a) No benefit of any kind shall be payable from the  
7 assets of the Pension Fund unless specifically provided for in  
8 this act; however, the Board of Trustees, with the approval of  
9 the City, may grant ad hoc benefits after a public hearing and  
10 acceptance by the state of an actuarial impact statement  
11 submitted pursuant to part VII of chapter 112, Florida  
12 Statutes.

13       (b) The City may not offset any part of its required  
14 annual contribution by the Fund's assets except as determined  
15 in an actuarial valuation, the report for which is determined  
16 to be state accepted pursuant to part VII of chapter 112,  
17 Florida Statutes.

18       (c) All provisions of this act and operations of the  
19 Pension Fund shall be carried out in compliance with part VII  
20 of chapter 112, Florida Statutes.

21       (d) False or misleading statements made to obtain  
22 retirement benefits prohibited.--

23       1. It is unlawful for a person to willfully and  
24 knowingly make, or cause to be made, or to assist, conspire  
25 with, or urge another to make, or cause to be made, any false,  
26 fraudulent, or misleading oral or written statement or to  
27 withhold or conceal material information to obtain any benefit  
28 under this plan.

29       2.a. A person who violates subparagraph 1. commits a  
30 misdemeanor of the first degree, punishable as provided in  
31 section 775.082 or section 775.083, Florida Statutes.

1           b. In addition to any applicable criminal penalty,  
2 upon conviction for a violation of subparagraph 1., a  
3 participant or beneficiary of this plan may, in the discretion  
4 of the Board of Trustees, be required to forfeit the right to  
5 receive any or all benefits to which the person would  
6 otherwise be entitled under this Plan. For the purposes of  
7 this sub-subparagraph, "conviction" means a determination of  
8 guilt that is the result of a plea or trial, regardless of  
9 whether adjudication is withheld.

10           (21) Rollover distributions.--

11           (a) This subsection applies to distributions made on  
12 or after January 1, 1993. Notwithstanding any provision of the  
13 Plan to the contrary that would otherwise limit a  
14 distributee's election under this subsection, a distributee  
15 may elect, at the time and in the manner prescribed by the  
16 Board of Trustees, to have any portion of an eligible rollover  
17 distribution paid directly to an eligible retirement plan  
18 specified by the distributee in a direct rollover.

19           (b)1. "Eligible rollover distribution" is any  
20 distribution of all or any portion of the balance to the  
21 credit of the distributee, except that an eligible rollover  
22 does not include any distribution that is one of a series of  
23 substantially equal periodic payments (not less frequently  
24 than annually) made for the life (or life expectancy) of the  
25 distributee or the joint lives (or joint life expectancies) of  
26 the distributee and the distributee's designated beneficiary,  
27 or for a specified period of 10 years or more; any  
28 distribution to the extent such distribution is required under  
29 section 401(a)(9) of the Code; and the portion of any  
30 distribution that is not includable in gross income.

31

1           2. "Eligible retirement plan" is an individual  
2 retirement account described in section 408(a) of the Code, an  
3 individual retirement annuity described in section 408(b) of  
4 the Code, an annuity plan described in section 403(a) of the  
5 Code, or a qualified trust described in section 401(a) of the  
6 Code that accepts the distributee's eligible rollover  
7 distribution. However, in the case of an eligible rollover  
8 distribution to the surviving spouse, an "eligible retirement  
9 plan" is an individual retirement account or individual  
10 retirement annuity.

11           3. "Distributee" includes an employee or former  
12 employee. In addition, the employee's or former employee's  
13 surviving spouse and the employee's or former employee's  
14 spouse or former spouse who is entitled to payment for alimony  
15 and child support under a domestic relations order determined  
16 to be qualified by this Fund are distributees with regard to  
17 the interest of the spouse or former spouse.

18           4. "Direct rollover" is a payment by the Plan to the  
19 eligible retirement plan specified by the distributee.

20           (22) Rollovers from qualified plans.--

21           (a) A member may roll over all or part of his or her  
22 assets in another qualified plan to his or her chapter 175,  
23 Florida Statutes, share account, provided all of the following  
24 requirements are met:

25           1. Some or all of the amount distributed from the  
26 other plan is rolled over to this plan no later than the 60th  
27 day after distribution was made from the plan or, if  
28 distributions are made in installments, no later than the 60th  
29 day after the last distribution was made.

1           2. The amount rolled over to the share account does  
2 not include any amounts contributed by the member to the plan  
3 on a posttax basis.

4           3. The rollover is made in cash.

5           4. The member certifies that the distribution is  
6 eligible for a rollover.

7           5. Amounts which the Trustee accepts as a rollover to  
8 this Fund shall, along with any earnings allocated to the  
9 Trustee, be fully vested at all times.

10  
11 The rollover may also be made to this plan from an individual  
12 retirement account qualified under Code Section 408 when the  
13 individual retirement was merely used as a conduit for funds  
14 from another qualified plan and the rollover is made in  
15 accordance with the rules provided in subparagraphs 1.-5.  
16 Amounts rolled over may be segregated from other Fund assets.  
17 The Trustee shall separately account for gains, losses, and  
18 administrative expenses on these rollovers as provided for in  
19 paragraphs (5)(d) and (j). In addition, the Fund may accept  
20 the direct transfer of a member's benefits from another  
21 qualified retirement plan or Internal Revenue Code section 457  
22 plan. The Fund shall account for direct transfers in the same  
23 manner as a rollover and shall obtain certification from the  
24 member that the amounts are eligible for a rollover or direct  
25 transfer to this Fund.

26           (b) Transfer of accumulated leave.--

27           1. Members eligible to receive accumulated sick leave,  
28 accumulated vacation leave, or any other accumulated leave  
29 payable upon separation shall have the leave transferred to  
30 the Fund up to the amount permitted by law. Any additional  
31 amounts shall be paid directly to the member. Members on whose

1 behalf leave has been transferred shall maintain the entire  
2 amount of the transferred leave balance in the DROP or Share  
3 Account.

4 2. If a member on whose behalf the City makes a  
5 transferred leave balance to the Plan dies after retirement or  
6 other separation, then any person who would have received a  
7 death benefit had the member died in service immediately prior  
8 to the date of retirement or other separation shall be  
9 entitled to receive an amount equal to the transferred leave  
10 balance in a lump sum. In the case of a surviving spouse or  
11 former spouse, an election may be made to transfer the leave  
12 balance to an eligible retirement plan in lieu of the lump sum  
13 payment. Failure to make such an election by the surviving  
14 spouse or former spouse within 60 days after the member's  
15 death shall be deemed an election to receive the lump sum  
16 payment.

17 3. The Board, by rule, shall prescribe the method for  
18 implementing the provisions of this paragraph.

19 4. Amounts transferred under this section shall remain  
20 invested in the Pension Fund for a period of not less than 1  
21 year.

22 (23) Actuarial assumptions.--The following actuarial  
23 assumptions shall be used for all purposes in connection with  
24 this Fund, effective October 1, 1998:

25 (a) The period for amortizing current, future, and  
26 past actuarial gains or losses shall be 20 years.

27 (b) The assumed investment rate of return shall be  
28 8.25 percent.

29 (24) Prior firefighter service.--Unless otherwise  
30 prohibited by law, the years, or fractional parts of years,  
31 that a member previously served as a firefighter with the City

1 during a period of employment and for which accumulated  
 2 contributions were withdrawn from the fund, or the years, and  
 3 fractional parts of years, that a member served as a  
 4 firefighter for this or any other municipal, county, or state  
 5 fire department or district or any time served in the military  
 6 service of the Armed Forces of the United States shall be  
 7 added to the years of credited service, provided that the  
 8 member contributes to the fund the sum that would have been  
 9 contributed, based on the member's salary and the employee  
 10 contribution rate in effect at the time that the credited  
 11 service is requested, had the member been a member of this  
 12 system for the years, or fractional parts of years, for which  
 13 the credit is requested, plus the amount actuarially  
 14 determined, such that the crediting of service does not result  
 15 in any cost to the fund, plus payment of costs for all  
 16 professional services rendered to the board in connection with  
 17 the purchase of years of credited service.

18 (a) Payment by the member of the required amount may  
 19 be made within 6 months after the request for credit and in  
 20 one lump sum payment, or the member may buy back this time  
 21 over a period equal to the length of time being purchased or 5  
 22 years, whichever is greater, at an interest rate which is  
 23 equal to the Fund's actuarial assumption. A member may request  
 24 to purchase some or all years of service.

25 (b) The credit purchased under this section shall  
 26 count for all purposes, except vesting.

27 (c) In no event, however, may credited service be  
 28 purchased pursuant to this section for prior service with any  
 29 other municipal, county, or state fire department or district,  
 30 if such prior service forms or will form the basis of a  
 31

1 retirement benefit or pension from another retirement system  
2 or plan.

3 (d) In the event that a member who is in the process  
4 of purchasing service suffers a disability and is awarded a  
5 benefit from the plan, the member shall not be required to  
6 complete the buyback. However, contributions made prior to the  
7 date the disability payment begins will be retained by the  
8 Fund.

9 (e) If a member who has either completed the purchase  
10 of service or is in the process of purchasing service  
11 terminates before vesting, the member's contributions shall be  
12 refunded, including the buyback contributions.

13 (f) A request to purchase service may be made at any  
14 time during the course of employment; however, the buyback is  
15 a one-time opportunity.

16 Section 2. All special laws and parts of special laws,  
17 ordinances, or regulations, insofar as they are in conflict or  
18 inconsistent with the provisions of this act, are repealed.

19 Section 3. This act shall take effect upon becoming a  
20 law.